

REMARKS

This Amendment and Request for Reconsideration is submitted in response to an outstanding Office Action mailed on May 27, 2009, the shortened statutory period for response set to expire on August 27, 2009. The response is timely. In the event that the Commissioner determines a petition for an extension of time or associated fee is required, the undersigned hereby petitions for such extension of time and authorizes the Commissioner to charge any required fee to the Milbank deposit account 13-3250.

Applicant and the undersigned appreciate the time and consideration during multiple telephone calls in an effort to put the claims into allowable form. The need to address statutory subject matter under § 101 in view of *Bilski* was also discussed. The Amendments presented in this response reflect the issues addressed during those calls.

I. Status of the claims

Please cancel claims 11, 15-18 and 28 without prejudice, and amend claims 1, 12, 13, 14, and 29 as indicated above. Claims 1-5, 7-10, 12-14, 19-27, and 29 are now pending in the application. Claims 1 and 29 are independent claims.

II. Rejections under 35 U.S.C. § 102

The Examiner has rejected claims 1-5, 7, 8 and 11-29 under 35 U.S.C. § 102 as being anticipated by U.S. Published Patent Application No. US 2002/0147670 A1 to *Lange*.

In the office action, the Examiner states that the claimed loss threshold mechanism is broad and suggests claims directed to one of the particular loss threshold

mechanisms as possibly overcoming *Lange*.

Applicant has amended claims 1 and 29 to recite one of the particular loss threshold mechanisms described in the specification, and respectfully submits that *Lange* fails to disclose or suggest the pending claims. Withdrawal of the § 102 rejection and allowance of the pending claims over *Lange* is respectfully requested.

III. Rejections under 35 U.S.C. § 103

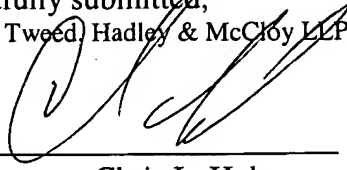
The Examiner has rejected claims 6, 9 and 10 under 35 U.S.C. § 103 as being anticipated by U.S. Published Patent Application No. US 2002/0147670 A1 to *Lange* in view of *Champion* (U.S. Patent No. 5,126,936).

Claim 6 is cancelled without prejudice and claims 9 and 10 depend from claim 1. As discussed above, *Lange* does not anticipate claim 1 and therefore the combination of *Lange* and *Champion* does not render claims 9 and 10 unpatentable under 35 U.S.C. § 103. Withdrawal of the rejection and allowance of claims 9 and 10 is respectfully requested.

IV. Request for Reconsideration

The Applicant respectfully submits that the claims of this application are in condition for allowance. Accordingly, reconsideration of the rejection and allowance is requested. If a conference would assist in placing this application in better condition for allowance, the undersigned would appreciate a telephone call at the number indicated.

Respectfully submitted,
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August 5, 2009

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